IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

WP(C).No. 32331 of 2007(Y)

OS.371/1987 of MUNSIFF COURT, PERUMBAVOOR
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PETITIONERS:
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1. NARENDRANADHAN NAIR,
NEPHEW OF VELAYUDHAN NAIR, THEKKEPALALI HOUSE,
PUNNAYAM KARA, ASAMANNOOR VILLAGE.

2. VIJAYAN NAIR,
THEKKEPALALI HOUSE, PUNNAYAM KARA,
ASAMANNOOR VILLAGE.

BY ADV. SRI.RAJESH VIJAYAN

RESPONDENT:

ASAMANNOOR GRAMA PANCHAYAT, REP. BY
ITS EXECUTIVE OFFICER (SECRETARY),
ASAMANNOOR-683 549.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 32331 OF 2007

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Dated this the 1st day of November, 2007.

J U D G M E N T

This writ petition is filed against the order of the learned Munsiff, Perumbavoor against Ext.P7 order. The suit is one for injunction. It is the case of the plaintiff that the property described in the B schedule is part and parcel of their property and that it does not belong to the Panchayat and therefore an injunction has to be issued with respect to the same. A perusal of the plaint would reveal that the plaintiffs claim the property on the ground that it belong to the family of Elanjikamali and that A schedule belong in jenm to Pandaravaka and B schedule was a puramboke. So the plaintiffs' has got a case that B schedule property was only a puramboke land. According to them it is used as a pathway to enter into the A schedule property and other places.

2. On the other hand, the defendant would contend B schedule property is part and parcel of one chira called

'kothachira' which is vested in the Panchayat and plaint B schedule is part of the same and therefore the plaintiffs are not entitled to any relief. On the other hand the plaintiffs have filed an interrogatory directing the Panchayat to answer 17 questions. I am conscious of the fact Order 11 permits service of interrogatories but it is fundamental that interrogatories cannot be used as a method to fish out evidence. In a suit of injunction exclusive burden is on the plaintiff to establish his case of possession and the questions which are put relates to matters pertaining to the fact that how many purambokes are vested in the Panchayat, how many trees are there in the Grama Panchayat and so on. They also want to scrutinize the files and give some answers. Even according to the plaintiffs the matter is of immemorial age and the Panchayat even then furnish particulars which was available with them in that capacity. Therefore, compelling the defendant to answer questions in order to help the plaintiffs to prove their case is not what is intended under Order 11 CPC. The plaintiffs have to succeed or fail on

the basis of their evidence and documents and not on the weakness of other matters. Therefore, the order passed by the learned Munsiff that the Panchayat has given satisfactory answers appears to be reasonable and correct. Therefore, the writ petitioner is dismissed.

M.N. KRISHNAN, JUDGE.

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